

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

OSWALD LOOKSHIN, §
§
Plaintiff, §
§
VS. § CIVIL ACTION NO. H-05-3834
§
UNION PLANTERS BANK, §
§
Defendant. §

MEMORANDUM AND ORDER

Defendant Regions Bank, Successor by Merger to Union Planters Bank, has moved for leave to file a second motion for summary judgment. On May 18, 2006, within the deadline set by this court, Regions Bank moved for partial summary judgment on the claims asserted by plaintiff Oswald Lookshin for breach of contract, negligence, violations of the Texas Deceptive Trade Practices Act, and mental anguish damages. This court granted that motion, noting that the fraud claim remained.¹ Regions Bank now moves to leave to file a summary judgment motion as to the remaining claim. (Docket Entry No. 35). Lookshin opposes the motion. (Docket Entry No. 36).

Regions Bank does not explain why it did not seek summary judgment as to the fraud claim when it moved for summary judgment as to all the other claims in the case. Although

¹ Lookshin points out that the October 30, 2006 Memorandum and Opinion stated that it granted in part and denied in part the partial summary judgment motion. That is a misstatement. The Memorandum and Opinion granted the partial summary judgment motion. Regions did not move for summary judgment as to the fraud claim, which remains in the case.

this court did vacate the final part of the scheduling and docket control order after Regions Bank filed its earlier motion, that occurred long after the dispositive motions deadline had passed. The motion for leave to file a second motion for summary judgment is denied.

Counsel are ordered to file a joint pretrial order no later than **February 23, 2007**, at 9:00 a.m. Counsel are to appear for docket call on **March 5, 2007, at 8:45 a.m.**

SIGNED on January 26, 2007, at Houston, Texas.



Lee H. Rosenthal
United States District